

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Metalclad Insulation Corporation  
2198 South Dupont Drive  
Anaheim, California 92806  
  
CAL 000827875

Docket HWCA 01/02 - 4010

CONSENT ORDER

Health and Safety Code  
Section 25187

The California State Department of Toxic Substances Control  
(Department) and Metalclad Insulation Corporation, a California Corporation  
(Respondent) enter into this Consent Order and agree as follows:

1. Respondent handles, stores, and/or transports hazardous waste and has a office located at 2198 South Dupont Drive, Anaheim California 92806.

2. The Department conducted an inspection of the Respondent as relating to its work in the "Sound Abatement Project" run by Los Angeles International World Airports in Los Angeles County. This project encompasses thousands of residential homes, apartments, etc. in and around the Los Angeles International Airport.

3. The Department alleges the following violations:

3.1 The Respondent violated Health and Safety Code section 25201, subdivision (**a**), in that during the years 2000 and 2001 the respondent stored

hazardous waste for longer than 10 days without a permit or authorization from the Department on 51 separate occasions.

3.2 The Respondent violated Health and Safety Code section 25189.2, subdivision (a), in that during the year 2001 the Respondent was unable to accurately determine the date of generation and first transportation of hazardous waste on **44** different manifests.

3.3 The Respondent violated California Code of Regulations, title 22, section 66263.22, subdivision (a), in that on or about November 27, 2001, the facility failed to keep a copy of the manifest signed by the generator and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

3.4 The Respondent violated Code of Federal Regulations, title 49, section 172.704, subdivision (d), as incorporated by reference in California Code of Regulations, title 13, section 1161.7, which is in turn incorporated by reference in California Code of Regulations, title 22, sections 66263.13 and 66263.23, in that on or about November 27, 2001, the facility failed to keep a record of current training for each hazmat employee.

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

5. Jurisdiction exists pursuant to Health and Safety Code section 25187.

6. Respondent waives any right to a hearing in this matter.

7. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

8. By entering into this Consent Order, the Respondent does not admit any of the violations alleged.

#### SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following:

9.1 Employee Training: Respondent shall ensure that each of its employees reads and understands Respondent's "Policy Implementation Plan for Hazardous Material Shipment Policy and Procedures and Requirements for Transporting and Packaging Asbestos Waste" or any successor document [Attachment A]. Each employee shall sign a statement, to be entered into their employee file, attesting to their reading and understanding of this document. This shall be completed within 30 days of the effective date of this Consent Order and for every subsequent new employee.

9.2. Record Keeping: Respondent shall keep copies, available upon request to the Department, of manifests signed by the generator and the next designated transporter for a period of three years from the date the hazardous waste was first accepted by Respondent for transportation. This shall be completed within 30 days of the effective date of this Consent Order.

Respondent shall keep records, available upon request to the Department, of current training for each hazmat employee, including but not limited to

those training records relating to employees designated to transport hazardous waste.

This shall be completed within 30 days of the effective date of this Consent Order.

9.3. Submittals: All submittals from Respondent pursuant to this

Consent Order shall be sent simultaneously:

To: Carmelita Lampino, Unit Chief  
Department of Toxic Substances Control  
Statewide Compliance Branch  
5796 Corporate Avenue  
Cypress, California 90630

To: Mary Locke, Chief Investigator  
Department of Toxic Substances Control  
Criminal Investigations Branch  
1001 "I" Street, 23<sup>rd</sup> Floor  
P.O. Box 806  
Sacramento, California 95812-0806

To: Debra Schwartz  
Office of Legal Counsel  
Department of Toxic Substances Control  
1011 N. Grandview Avenue  
Glendale, California 91201-2205

9.4. Communications: All approvals and decisions of the

Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

9.5. Department Review and Approval: If the Department

determines that any report, plan, schedule, or other document submitted for approval

pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.6. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.7. Liability Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 11.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

9.10. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.11. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

### PAYMENTS

10. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$64,660.91 , of which \$ 50,000 is a penalty and \$ 14,660.91 is reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P.O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Mary Locke, Chief Investigator  
Department of Toxic Substances Control  
Criminal Investigations Branch  
1001 "I" Street, 23<sup>rd</sup> Floor  
P.O. Box 806  
Sacramento, California 95812-0806

To: Carmelita Lampino, Unit Chief  
Department of Toxic Substances Control  
Statewide Compliance Branch  
5796 Corporate Avenue  
Cypress, California 90630

To: Debra Schwartz, Staff Counsel  
Department of Toxic Substances Control  
Office of Legal Counsel  
1011 N. Grandview Avenue  
Glendale, California 91201-2205

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

#### OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to

individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

**11.4. Effective Date:** The effective date of this Consent Order is the date it is signed by the Department.

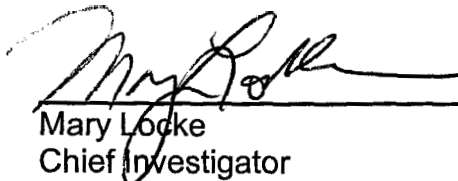
**11.5. Intearation:** This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 09/04/02



Metacalclad Insulation Corporation  
By **Robert Rizzo**, President

Dated: 9-24-02



Mary Locke  
Chief Investigator  
Department of Toxic Substances Control